

## REMARKS

The following are Remarks in response to the second Office Action dated 04-04-2008.

Please note the first Amendment submitted by the Applicant dated 12-31-2007 is referred to as Amendment #1; the Amendment presented herein is referred to as Amendment #2; the first Office Action dated 8-01-2007 is referred to as O.A. #1; and the second Office Action dated 04-04-2008 is referred to as O.A. #2.

The items in this Amendment #2 are numbered from **[101]** onward, to establish a distinctly different numbering system from the Applicant's Application ( **[0001]** ) and Amendment #1 ( **[001]** ).

**[101] A Brief Summary of the Remarks in this Amendment: The Applicant respectfully requests reconsideration of the rejection of Claims 19 to 29 as documented in Amendment #1, and as submitted with this Amendment #2 with minor amendments, on the basis that these Claims now meet the requirements of 35 USC § 101, 102, 103, and 112 as summarized below:** The following is a brief summary of the remarks included in this Amendment #2 in response to the O. A. #2 of 04-04-2008. A detailed response to each of the 24 items of this O.A. #2 is provided after this summary.

This summary reviews the major and defining elements of this invention, with the four digit numbers in brackets included in the text referring to the individual items in the Applicant's original Application:

**[102] Under 35 USC § 101, this invention is useful, practical and tangible.** This invention is titled **"Developing the Twelve Cognitive Functions of Individuals,"** and is a system and method for developing each of the twelve cognitive functions of individuals as detailed in the Specifications of the Application dated 02-18-2004, as amended in the Amendment dated 12-31-2007, and as further amended herein in this Amendment #2.

- (1) This invention is a significant improvement on the nearest prior art, The Myers Briggs Type Indicator (MBTI), which has been in use for over 50 years, has been used by a total of over 40 million individuals, is translated into 17 different languages, and is currently used by 2 million individuals per year. This MBTI information was provided by Roger Pearman in the May 2007, issue of the Talent Management journal article submitted with the Applicant's 05-17-2004 Affidavit Declaration.
- (2) The significant improvement on a successful prior art of this invention establishes its useful, practical, and tangible attributes, as now presented in Claims 19 to 29 as currently amended.

The Interview Record mailed December 20, 2007, from the USPTO stated: *"The Applicant further discussed the issues brought forward under 35 USC 112 and 101, see pages 8-9, in reference to proposed new claim 19, see pages 10-13. The Examiners stated that the preliminary assessment of the claim did not uncover any issues under 35 USC 112. The Examiners further stated that claim 19 as proposed seemed to comply with 35 USC 101 in that utilizing documents and survey reports is claimed in the method, see Para. (h)-(k), pages 11 & 12."*

The Claim 24 presented in Amendment #1 and amended herein is virtually identical, with only a few minor word changes, to the *"proposed new claim 19"* discussed in the interview.

**[103] Under 35 USC § 102, this invention has a novel structure of its cognitive architecture system of twelve cognitive functions.** The following is a brief definition of the three-part structure of this invention, as further defined and described in the Application and in the Amendments:

- (1) This Application defines a novel structure of a *"Cognitive Architecture System"* [0060] of exactly *"twelve cognitive functions* [0067] that are *"interacting, interrelated, and interdependent"* [0060], as further defined in Fig. 1 of the Application, and where *"the readily observable and distinct cognitive traits of all behaviors and actions of individuals can be attributed to one of the twelve cognitive functions, can be a subset of a specific function, or can be attributed to a combination of functions."* [0063]

- (2) This Cognitive Architecture System structure is further defined in Fig. 2 and in [0088] to [0090] of the Application, which states: *"The twelve cognitive functions are divided up into column sets of left-brain-style functions and right-brain-style functions relative to the common characteristics of the functions in each of the two column sets."*

The "left-brain-style" and "right-brain-style" functions have novel definitions, as precisely defined in [0089 and [0090], and as allowed under MPEP 2173.05(a)-III which states: *"Consistent with the well established axiom in patent law that a patentee or applicant is free to be his or her own lexicographer, a patentee may or applicant may use terms in a manner contrary to or inconsistent with one or more of their ordinary meanings if the written description clearly redefines the meaning."*

- (3) This Cognitive Architecture System structure is still further defined in Fig. 1 and in [0072] of the Application, which states: *"The twelve functions are matched in six pairs, as represented in blocks 24, 26, 30, 32, 36, and 38. Each function in a pair has complementary but polar-opposite attributes similar to east and west on the compass. The effectiveness of each function in a pair is increased by the way the two functions in a pair work together in a complementary and polar-opposite way."* [0072]
- (4) MPEP 608.02(b) IV, states that: *"for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly."*
- (5) MPEP 2114 states that: *"Even if the prior art device performs all the functions recited in the claim, the prior art cannot anticipate the claim if there is any structural difference."*
- (6) MPEP 2131 states that: *"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."*
- (7) The Applicant respectfully submits that the complete "elements" of the structure of this invention, as summarized in the preceding paragraphs, have not been *"taught, suggested, or motivated"* by the prior art.

**[104] Under 35 USC § 103, the Applicant respectfully submits being unable to find any "teaching, suggestion, or motivation" of obviousness or lack of novelty, "as a whole," of the complete and exact structure of this invention in the references**

**cited in the first Office Action dated 08-01-2007, and in the second Office Action dated 04-04-2008.** The definition of “*as a whole*” in MPEP 2142 is understood to mean the finding of obviousness of the complete structure of the invention, the precise arrangements of elements in the invention, and the precise selection of elements or components of the invention.

- (1) The Applicant has been unable to find, in the cited references, any “*teachings or suggestion to make the claimed combination*” of: (a) the precise definition that exactly twelve cognitive functions are needed to form a complete cognitive architecture system (where the word “system” defines “accumulated into a whole”), (b) the precise selection of the twelve individual cognitive functions of this invention; (c) the precise selection of six cognitive functions of the “*left-brain-style*” set; (d) the precise selection of six cognitive functions of the “*right-brain-style*” set; (e) and the precise selection of the six pairs of functions with complementary and polar-opposite attributes and characteristics matched in this invention.
- (2) MPEP 2142 states: “*To reach a proper determination under 35 USC 103, the examiner must step backward in time and into the shoes worn by the hypothetical “person of ordinary skill in the art” when the invention was unknown and just before it was made. In the view of all the factual information, the examiner must then make an interpretation whether the claimed invention “as a whole” would have been obvious at that time to that person.*”
- (3) MPEP 2143 states: *To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be some reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.* MPEP 2143 further states: *The teachings or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant’s disclosure.*
- (4) The new USPTO Docket No. PTO-P-2007-0031 (KSR International Co. v. Teleflex Inc.) provides guidelines for determining obviousness under 35 U.S.C 103 that: “*there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. Rationales: (A) Combining prior art elements according to known methods to yield predictable results; (B) simple substitution of one known element for another to*

*obtain predictable results;*(C) *Use of a known technique to improve similar devices (methods, or products) in the same way;* (D) *Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;* (E) *"Obvious to try"—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;* (F) *Known work in one field may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;* and (G) *Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention."*

- (5) The approximately 62 individual objections recorded in this O.A. #2 are directed at individual components of this invention, and none show evidence of obviousness "as a whole" of the structure and details of this invention and "all the claim limitations." The opinion that "one skilled in the art" would anticipate the structure, details, and claims of this invention is without merit and is unsubstantiated.
- (6) The twelve components selected from the 83 similar items in Wood to correspond with the twelve cognitive functions of this invention could only have been selected with the prior knowledge of this invention, as there is no "teaching, suggestion or motivation" in Wood or the other references cited to select exactly twelve items to define the cognitive architecture system of this invention, or to select each of the twelve individual items from Wood to match the twelve cognitive functions of this invention.

**[105] Under USC § 112,** the Applicant respectfully submits that the details and wording of the Claims, as previously amended in Amendment #1 and further amended herein, are now fully supported by the Application.

**[106] AMENDMENTS TO THE SPECIFICATION.** The objection in O.A. #2, Item #3, to the amended wording in Amendment #1 for paragraph [0046] is respected by deletion of the sentence of: *"A further important feature of this invention is guiding individuals to first use the left-brain-style cognitive function in each pair before using the right-brain-style cognitive function in the pair for most effective use of both, as further described*

*herein.”*

This material is adequately covered in the original Specification in paragraphs [0046], [0144], and [0149](e).

**[107] AMENDMENTS TO THE CLAIMS.** The Claims have a number for minor changes in the wording to clarify antecedents and to delete the word “*comprising*” in places where its definition may cause confusion.

The words “*group of*” regarding the twelve cognitive functions have been deleted, as the word “*system*” in “*cognitive architecture system*” defines “*a group of items forming a whole.*”

Also, the words “*covering the full spectrum of cognition*” have been deleted from the claims as being unnecessary and fully covered in the Specification. This will avoid misunderstandings with the many possible and varied interpretations of these words.

**DETAILED REMARKS.** The following is a detailed response to each of the items in O.A. #2 dated February 4, 2008.

**[108] O.A. #2, Item 1: The Declaration under 37 CFR § 1.132 filed 12/31/07 by the Applicant contains substantial, relevant, and germane factual information comparing the closest prior art to this invention.** The Applicant respectfully requests reconsideration of the objection, as a whole, to this Declaration. The applicant submits that there is a clear and definite “nexus” between the twelve cognitive functions defined in the Specifications, the twelve cognitive functions described in this Declaration, and the twelve cognitive functions defined in the Claims, as viewed by “*one skilled in the art*” under MPEP 2163.04. This “nexus” is sufficient to have this Declaration material apply to the Claims of this invention.

- (1) The Charts #1 and #2 of Attachment “C”, pages 1 and 2, contain a fact-based comparison of the “*features*” of the Twelve Cognitive Functions that form the Cognitive Architecture System of this invention compared to the “*features*” of the eight cognitive functions of the closest prior art, the Myers Briggs Type Indicator

(MBTI). The factual description of the “*features*” of this comparison are clearly stated in the MBTI Manual provided with the IDS submitted by the Applicant and are clearly stated in the Application for this invention.

- (2) The Chart #3 of Attachment “C”, page 3, contains a factual and precise comparison between the “*definition*” of the Twelve Cognitive Functions that form the Cognitive Architecture System of this invention compared to the “*definition*” of the eight cognitive functions of the closest prior art, the MBTI. This is factual and germane evidence of the distinct difference of this invention compared to the MBTI, which is referenced in the Wood patent application cited by this O.A. #2. The exact “*definition*” of the words of this comparison are clearly stated in the MBTI Manual provided with the IDS submitted by the Applicant and are clearly stated in the Application for this invention.
- (3) This Chart #3 lists the Twelve Cognitive Functions identified by the “*Description of Twelve Cognitive Functions from Para. [0074] to [0087] of the Specifications,*” that are the principal elements of Claims 19, 24, and 27.
- (4) MPEP 2163.04 states: “*The examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant’s disclosure a description of the invention defined by the claims.*”
- (5) The applicant again submits that the “*nexus*” between the twelve cognitive functions defined in the Specifications, the twelve cognitive functions described in this Declaration, and the twelve cognitive functions defined in the Claims, as viewed by “*one skilled in the art*” under MPEP 2163.04, is sufficient to have this material apply to the Claims of this invention.

**[109] O.A. #2, Item 2: The Information Disclosure Statement items now missing from the USSPTO file were received by the USPTO, and receipt provided by the USPTO, on 05-17-2004 and appear to have been misplaced.** A second copy of this missing material was faxed to Fax No. 571-273-1420 on 11-06-2007 with “*fax transmission complete*” confirmed in the Applicant’s fax record. A third copy of the

missing information is being provided with this Amendment #2.

**[110] O.A. #2, Item 3: The Applicant respectfully submits that the objection to words regarding using “the left-brain-style cognitive function before the right-brain-style cognitive function in each pair” added to Paragraph [0046] in Amendment #1 has been overcome by deleting this material from the Specification.** This material is already adequately covered in the Specification by Paragraphs [0046], [0144], and [0149](e).

**[111] O.A. #2, Item 4 & 5: The Applicant respectfully submits that the material of Claims 22, 25, and 28 is fully supported by the Disclosure as originally filed.** The statement in O.A. #2, Item 5, states that *“support was not found in the Disclosure as originally filed for enabling one or more individuals or an entity to utilize the cognitive functions matched in pairs, wherein the left-brain-style cognitive function in each of the pairs of the complementary and polar-opposite functions is most appropriately utilized before the right-brain-style cognitive function in the pair.”*

The Applicant respectfully submits that the Claims 22, 25, and 28 are sufficiently supported by the Specifications in the Application as interpreted by *“one skilled in the art”* under MPEP 2163.04. The Applicant respectfully requests reconsideration of this objection based on the following excerpts from the Specification and the requirements of MPEP 2163.07 regarding *“rewording”* comparing Paragraphs [0046], [0144], and [0149](e) of the Specification to these Claims:

- (1) MPEP 2163.04 states that: *“A description as filed is assumed to be adequate, unless or until sufficient evidence or reasoning to the contrary has been presented by the examiner to rebut the presumption.”* MPEP 2163.04 further states: *“The examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant’s disclosure a description of the invention defined by the claims.”*
- (2) These Dependent Claims 22, 25, and 28 define a developmental *“method step”* consistent with [0001] of the Application that states: *“The present invention relates to a system and method defining the innate cognitive functions of all individuals and*



*discovering the unique characteristics of each of these functions, and, more particularly, relates to systems and methods to use this new knowledge of innate cognitive functions as a development process to improve individual competencies and executive effectiveness.”*

- (3) These Dependent Claims define a developmental “method step” consistent with [0042] of the Application that states: *“The invention is a comprehensive system and method involving the use of individual cognitive information to develop the cognitive abilities and leadership capabilities of individuals. It is also a system and method that enables the use of a development program based on cognitive functions in practice as a way to increase the likelihood of success of an individual, project, team, or organization in achieving established goals.”*
- (4) The developmental method steps of Claims 22, 25, and 28 are further covered in [0103] and [0110] referring to Fig. 6 of the Drawings, are further covered by [0115] and [0119] referring to Fig. 7, and further covered by [0120] and [0127] referring to Fig. 8 of the drawings.
- (5) Paragraph [0046], page 14 of the Specification states: *“This invention includes a code of conditions and rules that governs the use of the twelve cognitive functions, and the interaction of the functions with each other.”*
- (6) Paragraph [0144], page 34 of the Specification states: *“The following code of further conditions and rules governs the understanding and application of the concept of twelve cognitive functions in individual and group cognitive development programs. This code is especially useful in understanding the proper use of the cognitive function concept and interaction of the functions with each other.”*
- (7) Item [0149](e), page 35 of the Specification providing details of the code states: *“It is most appropriate to use the slower left-brain style function in each pair first, to prepare for the most appropriate use of the faster right-brain style partner next. If an individual has a natural preference for the right-brain style function in a pair, he or she will instinctively open the thought process with this function. However, it is most effective if he or she quickly cycles back to the primary left-brain style function of the*

*pair to allow it to do its work, before returning to the preferred right-brain style partner."*

- (8) The following wording of Claim 22 of Amendment #1 (with minor further amendments herein) is provided for comparison with the text of the Specification in Items [0046], [0144], and [0149](e) above by "*one skilled in the art*". (Claims 25 and 28 have similar wording.)

*"Claim 22 (CURRENTLY AMENDED) The method of claim 21, ~~further comprising~~ the with the further step of advising the one or more individuals about appropriately utilizing the cognitive functions matched in the pairs, wherein the left-brain-style cognitive function in each of the pairs of the complementary and polar-opposite cognitive functions is most appropriately utilized before the right-brain-style cognitive function in the pair to prepare the right-brain-style cognitive function to be utilized more effectively, enabling the entity to utilize each of the group of twelve cognitive functions in the appropriate sequence to further improve competence, effectiveness, and productivity in everyday real-life situations."*

- (9) The similarity of the wording in the Specification and the wording in Claims 22, 25, and 28 meets the requirements of MPEP 2163.04 and 2163.07 as defined above.
- (10) O.A. #2, Item 9, establishes a standard for applying MPEP 2163.04 and 2163.07 regarding approximate word equivalency. It cites that: Wood's "*down-to-earth*" is equivalent to Applicant's "*reality*;" Wood's "*absorbed, non-verbal*" is equivalent to Applicant's "*listening*;" Wood's "*bold, entrepreneurial*" is equivalent to Applicant's "*courage*;" plus five other similar citations of such equivalency.

**[112] O.A. #2, Item 6,7, & 8: Regarding 35 USC § 103, the Applicant respectfully submits that this invention "*as a whole*" under MPEP 2141-II is unobvious. The items cited as being obvious are all merely secondary and conventional individual components of this invention. The references cited do not indicate or anticipate the complete structure of this invention "*as a whole*" as presented in the**

**Application.** The Applicant respectfully requests reconsideration of the rejection of Claims 19-29 based on the lack of obviousness “as a whole” in the references cited in O.A. #2 per the following details:

- (1) MPEP 2141-II states: *“When applying 35 U.S.C. 103, the following tenants of patent law must apply: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of the combination; (C) The references must be viewed without the benefit of inadmissible hindsight vision afforded by the claimed invention; and (D) Reasonable expectation of success is the standard with which obviousness is determined.”*

The phrase “*considered as a whole*” defines that the obviousness references must indicate or suggest the complete structure of the invention “*as a whole*,” including all the principle elements forming the structure of the invention, and all the claim limitations.

- (2) MPEP 2142 states: *“To reach a proper determination under 35 USC 103, the examiner must step backward in time and into the shoes worn by the hypothetical “person of ordinary skill in the art” when the invention was unknown and just before it was made. In the view of all the factual information, the examiner must then make an interpretation whether the claimed invention “as a whole” would have been obvious at that time to that person.*
- (3) MPEP 2143 states: *To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be some reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. This MPEP 2143 further states: “The teachings or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant’s disclosure.”*
- (4) The new USPTO Docket No. PTO-P-2007-0031 (KSR International Co. v. Teleflex Inc.) provides guidelines for determining obviousness under 35 U.S.C 103 that: *“there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. Rationales: (A) Combining prior art elements according to known methods to yield predictable results; (B) simple substitution of one known element for another to obtain predictable results; (C) Use of a known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product)*

*ready for improvement to yield predictable results; (E) "Obvious to try"—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; and (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention."*

- (5) The applicant respectfully submits that the prior art references cited do not provide "*suggestion or motivation*" of the structure and details of this invention, nor do they "*teach or suggest all the claim limitations*" of this invention. Also, the Applicant respectfully submits that the new obviousness guidelines of KSR v. Teleflex inc. have not been met.

**[113] O.A. #2, Item 9(a). Wood does not provide any "*teaching or suggestion*" that the twelve trait items from Wood be selected from among the 83 similar trait items listed in Wood to form a structure of the Cognitive Operating System of Twelve Cognitive Functions of this invention.** The Applicant respectfully submits that "*the teaching or suggestion to make the claimed combination*" of selecting; (a) the precise number of twelve trait items from Wood; and (b) the precise twelve items selected from the 83 similar trait items of Wood that are individually matched to the items defined in this invention; did not come from prior art. It could only have come from the "*applicant's disclosure*" of twelve items needed to form a cognitive architecture system, and of the "*applicant's disclosure*" of the specific twelve cognitive functions of the Cognitive Architecture System defined in this invention.

There is no "*teaching or suggestion*" of a "*system*" of precisely twelve cognitive components in Wood or the other references cited, and no "*teaching or suggestion*" of which twelve of the 83 trait items of Wood should be selected for this system. Any such matching or selection of the items of Wood compared to the twelve cognitive functions of this invention benefits from prior knowledge of this invention, which is insufficient evidence of obviousness under MPEP 2141-II(C), 2142, and MPEP 2143.

**[114] O.A. #2, Item 9(b). Re “defining the structure of the Cognitive Architecture System,”** the Applicant respectfully submits that the “obviousness” items cited from Wood are all very general in nature and refer to any number of “systems,” teach against the precise details of this invention, and do not anticipate the precise structure, system, and details of this invention “as a whole.” The Wood items so cited that teach against the precise combination and structure of the exact twelve cognitive functions of this invention include: “*which groupings of characteristics are chosen,*” ... “*a large number of characteristics,*” ... “*many different personality definitions and measuring schemes,*” and ... “*a user’s personality is made up of a large number of characteristics,*” plus other items listed in this Item 9(b) of a similar indefinite and imprecise nature.

Each of these items further defines the unobviousness of this invention by teaching away from the exact structure and details of this invention.

**[115] O.A. #2, Items 9(c) through 9(i). Re “documenting,” “surveying,” “reporting,”** and the other conventional components cited in these items, are all necessary but conventional components involved in implementing this invention in a useful, practical, and tangible manner. These components cited from Wood anticipate only minor and very conventional components of this invention and of the Claims.

- (1) Most patentable inventions, including this invention, are composed of primary novel “elements” of a patentable nature, as well as secondary conventional “components” needed to complete a useful, practical, and tangible product under USC 35 § 101.

The patentable, primary, and novel elements of an invention are the structure, the arrangement, and the specific selection of individual items making up “*the whole.*” It is understood that an invention is patentable if the structure is novel, or the selection, arrangement, or the assembly of the components is novel, if the invention provides a useful, practical and tangible product, even if each individual component is itself obvious.

The secondary conventional components can be commonly used items such as the questionnaire, survey, tabulation, report, evaluation, and feedback steps used in this invention, and in also used in Wood, Cuttler, Buffington, Bonstetter, and other inventions cited in the Applicant's I.D.S. and in O.A.s #1 and #2.

- (2) The Cuttler patent, newly cited in O.A. #2, was recently granted even though it included secondary conventional components such as computer-based methods, surveys, evaluations, reports, and other conventional process components. These secondary Cuttler patent components all fall under the category of being "*obvious*" by the earlier filing date of many of the patents cited and others on record.
- (3) It is understood that finding all of the individual components of an invention, scattered among many components in other sources or references, is insufficient evidence of obviousness "*as a whole*" under MPEP 2143 if the structure, number of components, and selection of the components of an invention are not anticipated in the other sources or references.

(Note: There appears to be no item 9(h) listed in this item 9.)

**[116] O.A. #2, Item 10: Re Claims 21, 24, and 27, it is asserted that "*Wood broadly teaches*" a number of components of this invention, listed as 10(a1) to 10(e). The Wood references are unspecific in nature relative to this invention, match up some of many items in Wood with specific items in this invention, but do not anticipate or make obvious the structure and details of this invention "*as a whole*."** The Applicant respectfully requests reconsideration of obviousness based on the fact that these references do not establish obviousness of these claims "*as a whole*" with the complete structure of these Claims.

- (1) In Item O.A. #2, Item 10(a1), for example, the Wood Para.0012 items cited of "*analytical, quantitative, fact-based*" are not defined by Wood as being either left brain or right brain thinking. These cited words are inadequate in making obvious the precise definition in this invention that a "*left column set of six functions shares a left-brain-style of cognition comprising the reality, analysis, listening, cooperation, caution and adaptability functions.*"

This Wood reference of obviousness is incomplete, imprecise in nature, and does not anticipate or define the structure or the selection of the exact set of six left-brain-style cognitive functions sharing similar characteristics and attributes as precisely defined in the Specifications.

- (2) All the other items listed under O.A. 10, citing the Wood reference as providing the obviousness of individual components of this invention, share this similar incompleteness and imprecision compared to the complete structure of this invention. They do not anticipate or define, individually or in combination, the overall structure and details of this invention *“as a whole”* as presented in the Claims listed.

**[117] O.A. #2, Item 11: The precisely matched six pairs of cognitive functions of this invention are a central element of the overall structure of this invention *“as a whole.”*** The Applicant respectfully requests a finding of both the importance and the unobviousness of the pairs of cognitive functions of this invention for the following reasons:

- (1) Regarding pairs of cognitive functions forming part of Claims 21, 24, and 27, this item cites that what Wood *fails* to teach is (b): *“defining the left-brain and right-brain styles as matched in pairs, wherein reality is matched with imagination, analysis with intuition, listening with expressing, cooperation with independence, caution with courage, and adaptability with decisiveness.”*
- (2) This O.A. #2, Item 11, further stated that: *“Applicant has not disclosed that having the functions so paired solves any stated problem or is for any particular purpose.”*
- (3) The Applicant respectfully submits that the important purpose of this pairing is to define that each of six left-brain-style cognitive functions is paired with one of six right-brain-style cognitive functions, wherein each function in a pair is precisely matched with a cognitive function of a precisely polar-opposite nature, and wherein each function in the pair provides what the other lacks in a complementary way, and each function in each of the pairs is a critical element of effective overall cognition.

This is a major element of this invention, and is central to the overall structure of the complete invention. It is further defined in the original Specification in Item [0072].

- (4) Item [0072] of the Specification states: *"The twelve functions are matched in six pairs, as represented in blocks 24, 26, 30, 32, 36, and 38 [of Fig.1]. Each function in a pair has complementary but polar-opposite attributes similar to east and west on the compass. The effectiveness of each function in a pair is increased by the way the two functions in a pair work together in a complementary and polar-opposite way, such as one hand to hold a piece of paper and the other to write a name, or first stepping on one foot and then the other to walk."* This item [0072] further states: *"The first function in each pair has left-brain style serial processing attributes and the second function in each pair has right-brain style parallel processing attributes, as further detailed in FIG. 2."*

The word "complementary" is defined as "with each providing what the other lacks" as further described in Amendment #1.

- (5) The novel "left-brain-style" is a set of cognitive functions with an objective, conscious, and divergent style of serial processing to be used first in the pair as detailed in [0089], [0149](e), and in Drawing Fig. 2. The novel "right-brain-style" is a set of cognitive functions with a subjective, subconscious, and convergent style of parallel processing to be used after the opposite has done its work as detailed in [0089], [0149](e), and in Drawing Fig. 2
- (6) These novel definitions further establish the pairs of this invention as novel and unobvious, and are allowed by MPEP 2173.05(a)-III which states: *"Consistent with the well established axiom in patent law that a patentee or applicant is free to be his or her own lexicographer, a patentee may or applicant may use terms in a manner contrary to or inconsistent with one or more of their ordinary meanings if the written description clearly redefines the meaning."*
- (7) O.A.32, Item 11, further states: *"Moreover, it appears that the pairings of Extroversion with Introversion-----would perform equally well for pairing cognitive functions based on left-brain or right-brain-dominant-thinking styles."*

Wood, referencing MBTI, teaches against Applicant's invention in that it lists



Extraversion in the left column. Extraversion shares similar attributes to Expressing in this invention, defined by the Applicant as a *“right-brain-style”* cognitive function, but shares no attributes with Listening, which is the *“left-brain-style”* cognitive function opposite to Expressing in this invention.

- (8) Wood, referencing MBTI, further teaches against Applicant’s invention in that it lists Judging in the left column. Judging shares some similar attributes to Decisiveness, a *“right-brain-style”* cognitive function, but shares no attributes with Adaptability, which is the *“left-brain-style”* cognitive function opposite to Decisiveness in this invention. Thus two of the four pairs of MBTI referenced by Wood have opposite pair designations than this invention, further establishing that the pairs and the structure of this invention are unobvious, novel, and have a different structure compared to Wood and other prior art.
- (9) O.A. #2, Item 11, also states: *“Accordingly, it would have been obvious -----such that the pairs consist of-----considered a mere design consideration, which fails to patently distinguish over Wood.”* The exact two cognitive functions precisely defined in each of the six pairs, and the precise definition of exactly six pairs covering the full spectrum of cognition as defined in the Specification that form a major design consideration of this invention, are unobvious unless with prior knowledge of this invention.

What Wood fails to define or anticipate is the *“left-brain-style”* and *“right-brain-style”* attributes and characteristics in accordance with this novel definition, allowed under MPEP 2173.05(a)-III, assigned to each of the twelve cognitive functions of this invention, and fails to anticipate, either explicitly or implicitly, the novel formation of precisely six pairs of polar-opposite functions that are central elements of the structure of this invention *“as a whole”* as defined in [0046], [0072], and in Figs.1 and 2 of the Drawings.

**[118] O.A. #2, Item 12: Re Dependent Claims 20, 23, 26, & 29, defining six strengths and six weaknesses among the twelve cognitive functions, this is a**

**conventional component of this invention that applies solely to the novel twelve cognitive function of this invention.** The Applicant respectfully requests reconsideration of the objection to Claims 20, 23, 26, & 29 on the basis that these Dependent Claims defining six strengths and six weaknesses apply solely to the novel invention of the Twelve Cognitive Functions of the Cognitive Architecture system defined in the preceding Independent Claims. They are allowable due to their dependence on the novel nature of their respective Independent Claims.

- (1) This use of conventional components is typical of claims in most patents. The many Dependent Claims of the Cuttler patent provide evidence of very conventional steps being included in the Dependent Claims. These steps gain novelty and patentability as Dependent Claims by virtue of forming only a part of the preceding novel Independent Claim.
- (2) Cuttler Claim #2 and Claim #7 are examples of secondary conventional components becoming patentable as Dependent Claims: (a) Claim 2. *"The method of Claim 1, wherein the applicant is an applicant for a law enforcement, criminal justice or public safety employment,"* and (b) Claim 7. *"The method of Claim 1, wherein the responses to the revealed stem question and the hidden branch question are comprised of descriptive information."*

**[119] O.A. #2, Item 13: Re Claims 22, 25 & 28 regarding cognitive functions matched in pairs, with the left-brain-style cognitive function being most appropriately used before the right-brain-style cognitive function, the references cited do not indicate or anticipate the left-brain-style and right-brain-style in the novel way of this invention and do not indicate or anticipate the exact novel six pairs of this invention.** The Applicant respectfully requests reconsideration of the objection to Claims 22, 25, & 28 on the basis that the references cited are very general in nature, teach away from this invention, do not indicate the precise novel pairs of cognitive functions of this invention, and do not indicate or anticipate this invention "as a whole" as required by MPEP 2143.

- (1)      The Ned Herman words quoted from Wood of, *"each person's specialties of thought are balanced among the group as a whole,"* (starting on line 11 on page 12 of O.A. #2) teach against this invention in writing of different people's thinking styles being balanced in a group as a whole.

These words quoted from Wood teach against: (a) the need for an individual to appropriately use the novel left-brain-style cognitive function before the novel left-brain-style cognitive function in each pair, (b) the need to use both cognitive functions in a pair in a balanced way, (c) the definition of this exact set of six novel pairs of cognitive functions, and (e) the novel cognitive architecture system of twelve cognitive functions of this invention as described in [0044]. [0046], [0072], [0149](e), and in Figs.1 and 2 of the Drawings.

- (2)      Further teaching away from this invention is the conclusion in this O.A. #2, item 13, that: *"It is understood that the different styles of thinking reflect the use of both left-brain-style thinking and right-brain-style thinking, and that the balancing of different styles of thinking among a population of left- and right-brain thinkers to optimally achieve a group's common purposes, causes improvement of competence, effectiveness, and productivity in everyday real life situations."*

These words teach away from this invention that defines the importance of each individual becoming competent in both the left-brain-style function and the right-brain-style function in each of the novel and exact pairs of this invention.

- (3)      As Dependent Claims, these Claims 22, 25, & 28 all incorporate the novel and unobvious structure and details of their respective Independent Claims 19, 24, and 27, and thus, taken *"as a whole,"* they are novel and unobvious.

**[120] O.A. #2, Item 14: The Applicant respectfully requests reconsideration that the information provided in the original Application, in Amendment #1 of 12/31/07, and in this Amendment #2, is persuasive in allowing approval of the Claims 19 to 29 of this invention.**

**[121] O.A. #2, Item 15: Regarding the Declaration referring to the 10,000 hour research project noted on page 24 of the Amendment #1, the Applicant submits that the strongest possible evidence of non-obviousness is provided by the Applicant's finding of no information making this invention obvious during this extensive research effort.** It is understood that any finding of obviousness, both before and after the issuance of a patent, would immediately invalidate any patent on this invention, and therefore the Applicant would not have proceeded with this Application knowing of any obviousness. This is the most significant and definitive proof of non-obviousness possible.

**[122] O.A. #2, Item 16: Re "*long-felt need*" and "*failure of others*," the Applicant respectfully submits that the evidence provided in the Declaration provides valid information establishing these needs and failures spanning in excess of ten years.** The references cited in the Declaration comment on the Myers Briggs Type Indicator (MBTI), the closest prior art, which has been in continual use, virtually unchanged, for over forty years. Others have had a full forty years to improve on this closest prior art, the MBTI, in the form of this invention, and have failed to do so. Also, in this internet age, a period of five years is a much more appropriate time span than ten years to establish a "*long-felt need*." The Applicant submits being unable to find support in the MPEP requiring a full ten-year period.

- (1) In Attachment "A" of the Declaration, the TM Talent Magazine article, *Is Myers Briggs Still Viable*, by Roger Pearman is the most powerful definition of a "*long-felt need*" and "*failure of others*" that could possibly be made on this subject.

Roger Pearman's critical review of the Myers Briggs Type Indicator came after working with the MBTI for more than twenty years, came after serving as the President of the International Association of Psychological Type governing MBTI, and came after receiving two major awards for his work with MBTI. There is no indication that his statements apply solely to the last five years or ten years.

Roger Pearman's research leading up to this May 2007 article goes back to the early 1980's, more than 20 years ago. His biography on the internet states:

*"Roger began researching psychological type using the MBTI® assessment in the early 80's. With an eventual collaborative relationship with the Center for Creative Leadership, Roger used the CCL database to aid his research that lead to the following books and training materials: I'm Not Crazy, I'm Just Not You, Hardwired Leadership, Enhancing Leadership Effectiveness, Leadership Advantage, Introduction to Type and Emotional Intelligence, and YOU: Being More Effective in Your MBTI® Type."*

Many of the references cited in these books by Roger Pearman predate 1994.

- (2) Roger's research was honored with the Isabel Myers Memorial Research Award. As part of his commitment to the appropriate use of psychological type, Roger served as President of the International Association for Psychological Type, Conference Chair, and association representative to the International Test Users Association. The Association honored Roger with the Mary McCaulley Lifetime Achievement Award. (Mary McCaulley is the co-author of the 1998 MBTI Manual.)
- (3) In Attachment "B", on page 6 of 6 of the Declaration, the quote of *"An act of irresponsible armchair philosophy"* is from a 1997 publication, the quote of *"Too slick and simple"* is from a 1996 publication, and the quote of *"A party game"* is from a 1990 publication. Other dates shown in the "Notes" on just this referenced page 265 (provided with the Declaration) of *The Cult of Personal Testing* by Annie Murphy Paul are 1949, 1956, and 1984. These decades-old references establish the extended period of the research covered by this publication referenced in the Declaration.

This book by Annie Murphy Paul has over 60 pages of reference "Notes," starting on page 229 and ending on page 291, signifying the dept and the thoroughness of the research behind this book. In just the first 25 pages of Notes, there were 80 references cited with publishing dates earlier than 1994.

[123] O.A. #2, Item 16: Re ***“persons skilled in the art”*** using the ***“teachings of the above cited art”*** to ***“solve the problem,”*** the references cited in the examination provide no new material, and far less meaningful comparison material, than included in the MBTI manual included in the Applicant’s I.D.S. The Applicant respectfully submits that there is no new material of relevance in the references cited in O.A. #1 and #2 that allows *“one skilled in the art”* to *“solve the problem”* compared to the complete 420 pages of the 1998 *MBTI Manual* provided to the USPTO in the Applicant’s I.D.S., the previous edition of this manual published in 1985, and the thousands of other publications on this topic published over the last four decades.

An Amazon.com book search on the topic of the *“Myers Briggs Type Indicator”* produced 2681 book titles. The publication dates of the earliest books on this subject go back dozens of years. Those *“skilled in the art”* have had many decades to *“solve the problem”* and have failed to do so.

[124] O.A. #2, Item 17: This Item 17 stated that: ***“no further facts or argument is presented, thus the statement is a mere allegation,”*** regarding the definitions of ***“left-brain-style”*** and the ***“right-brain-style”*** of thinking on page 24 of the Applicant’s Amendment #1.

The Applicant respectfully submits that the ***“facts and argument”*** were referred to in the Applicant’s record of the Interview on page 24 of Amendment #1, provided by the Applicant in detail on pages 36 through 39 of this Amendment #1, and in the original Application. The words of the Applicant on page 24 of Amendment #1, referred to in this O.A. #2, Item 17, are precisely quoted as: ***“It should be further noted that there is a significant difference between typical ‘left and right brain thinking,’ as quoted above from the wording of the Interview Summary, and the ‘left-brain-style’ and ‘right-brain-style’ thinking uniquely defined in the novel wording of this invention.”*** [Bold emphasis added.]

The Applicant respectfully provides the following details to clarify the phrase

*"uniquely defined in the novel wording of this invention"* included in the Applicant's reply regarding the interview:

- (1) The words *"uniquely defined in the novel wording of this invention"* should have been sufficient reference to the many paragraphs of the Specification and Amendment #1 covering details of the *"left-brain-style"* and *"right-brain-style"* thinking of this invention.

The material provided in Item [020], pages 36 through 39, of Amendment #1, and in [0088], [0089], [0090], and [0149] in the original Application, is sufficient to clearly define the material and novel difference between conventional *"left and right brain thinking"* of prior art and the unique and novel definitions of *"left-brain-style"* and *"right-brain-style"* thinking of this invention.

- (2) It is important to avoid confusion or comparison with the many casual, varied, indefinite, often conflicting, and preconceived references to *"left-brain"* and *"right-brain"* thinking in prior art that lack the clarity, distinction and novelty of the polar-opposites in the novel pairs of this invention uniquely defined in the Specification in accordance with MPEP 2173.05. The references cited, and the common usages of the words *"left and right brain thinking,"* do not indicate or suggest the novel definitions, completeness, and clarity of the Applicant's definitions of *"left-brain-style"* thinking, and *"right-brain-style"* thinking.
- (3) What is novel in this invention is the structure of sorting this exact twelve cognitive functions into two column-sets of functions sharing similar attributes and characteristics as defined in the Application, with six *"left-brain-style"* functions forming one column, and six *"right-brain-style" functions* forming the second column. This novel structure further matches the twelve cognitive functions into complementary pairs with a *"left-brain-style"* function matched with a corresponding *"right-brain-style"* function, and with each function in the pair providing what the other lacks.
- (4) These novel definitions are allowed by MPEP 2173.05(a)-II which states: *"Courts have recognized that it is not only permissible, but often desirable to use new terms that are frequently more precise in describing and defining the new invention."*

- (5) Further, these novel definitions are allowed by MPEP 2173.05(a)-III which states: *"Consistent with the well established axiom in patent law that a patentee or applicant is free to be his or her own lexicographer, a patentee may or applicant may use terms in a manner contrary to or inconsistent with one or more of their ordinary meanings if the written description clearly redefines the meaning."* The meanings of *"left-brain-style"* and *"right-brain-style"* are clearly defined in a novel way in paragraphs [0088] to [0090] and [0149] of the Applicant's Application, as referred to in Amendment #1, as follows:
- (6) Item [0088], page 23, states: *"The left-brain and right-brain style functions are referred to now in FIG. 2 of the drawings, illustrating a flow chart of the concept of left-brain and right-brain styles of cognitive functioning as represented in block 40. They are detailed as follows:"*
- (7) Item [0089], page 23, states: *"(a) The left-brain style, as represented in block 42, indicates a slower, objective, conscious, and divergent style of serial cognitive processing with ability to think separately about the individual parts that make up a whole. Block 46 lists the left-brain style functions of Reality, Analysis, Listening, Cooperation, Caution, and Adaptability."*
- (8) Item [0090](b), page 23, of the Application states: *"The right-brain style, as represented in block 44, indicates a faster, subjective, subconscious, and convergent style of parallel cognitive processing with the ability to see the big picture formed by combining a number of parts. Block 48 lists the right-brain style functions of Imagination, Intuition, Expressing, Independence, Courage, and Decisiveness."*
- (9) Item [0149](e), page 34, states: *"It is most appropriate to use the slower left-brain style function in each pair first, to prepare for the most appropriate use of the faster right-brain style partner next. If an individual has a natural preference for the right-brain style function in a pair, he or she will instinctively open the thought process with this function. However, it is most effective if he or she quickly cycles back to the primary left-brain style function of the pair to allow it to do its work, before returning to the preferred right-brain style partner."*
- (10) Regarding pairs of cognitive functions, Wood makes reference to *"processes occurring on the left and the right"* in Para. 0010-0019, but fails to define what these



left-right processes are, and fails to define left and right processes in the precise and novel way of this invention.

- (11) Regarding pairs of cognitive functions, Wood teaches away from this invention in establishing pairs without defining the purpose and beneficial use of the pairing, and in particular fails to anticipate the novel form of pairing of this invention. Wood fails to use the word “*complementary*,” (with each supplying what the other lacks) in any reference to pairs, establishing a clear distinction between Wood’s reference to pairs from the MBTI Manual that are defined in the manual as “*either/or*” compared to the “*complementary*” pairs referred to in paragraphs [0046] and [0072] of this invention.
- (12) Regarding pairs of cognitive functions, Wood further teaches away from this invention in referencing, in Para. 0010, “*quadrants of thinking linked to particular regions of the brain, with processes occurring on the left or the right.*” This Para. 0010 to 0018 reference goes on to describe one of the quadrants with the characteristics cited of “*Analytical, quantitative, logical, fact-based*” but without signifying whether this is left-brain or right-brain thinking. Also, there is no definition of whether left-brain or right-brain thinking is referred to in the other three quadrants listed.
- (13) Further, in Para. 0021 & 0022, Wood lists “*decisions*” as an attribute of the “*Front Left quadrant*”, teaching against this invention that defines “*Decisiveness*” as a “*right-brain-style*” cognitive function. Furthermore, Wood fails to sort all the twelve cognitive functions of this invention into “*left-brain-style*” and “*right-brain-style*” columns, and thus fails to define the complete structure of this invention.”

**[125] O.A. #2, Item 18: The Applicant respectfully requests further consideration of the misunderstood interpretation of the wording of Applicant’s Amendment #1, Item [004] on pages 25 and 26 regarding “one skilled in the art” providing obviousness.** This Item 18 of O.A # 2 states that the Applicant wrote: “*that ‘one skilled in the art’ would know about the cognitive architecture system as claimed.*” This is an incomplete and misleading version of the actual text provided by the Applicant in Amendment #1 on pages 25 and 26.

No admission by the Applicant of the "obviousness" of this invention can be interpreted from the following correctly quoted segments of this Amendment #1, Item [004]: (Bold lettering added to illustrate words deleted in O.A. #2, Item 18.)

- (1) The Applicant stated, on page 25, 4<sup>th</sup> paragraph: "*It is understood that 'one skilled in the art' would have common knowledge about **the many ways** the novel cognitive architecture system of twelve cognitive functions, the preference survey instrument, and the preference survey report of this invention **are utilized** in a usable, tangible, and concrete way to develop the competence, effectiveness and productivity of individuals in everyday real-life situations.*" [After the "skilled-in-the-art" individual was informed of this invention.] [Bold emphasis added here and below.]
- (2) The Applicant stated, on page 25, 5<sup>th</sup> paragraph: "*This 'common knowledge' would include knowledge of **the conventional utilization of the many and various formats of documentation** of this invention and the **method of utilizing** this invention, comprising but not limited to: an electronic format; a computer program format; (etc.).*" [After the "skilled-in-the-art" individual was informed of this invention.]
- (3) The Applicant stated, on page 26, 2<sup>nd</sup> paragraph: "*This common knowledge would further include many additional **methods and means for providing knowledge about and beneficially utilizing** this invention in a useful, tangible and concrete way, comprising but not limited to: the forms of documentation listed above; (etc.).*" [After the "skilled-in-the-art" individual was informed of this invention.]
- (4) The applicant respectfully submits that this is analogous to a clothing designer, "skilled in the art," on learning of a hypothetical patented hook-and-loop fastener, then knowing how to "**utilize**" the invention in designing clothes with fasteners after being informed of the details of the invention. The designer would then have "**the method and means for providing knowledge about and beneficially utilizing**" this patented fastening system invention to inform and train those individuals producing the clothing on how to "**utilize**" the new fastener in place of the usual buttons.

[126] O.A. #2, Item 19: Based on the Disclosure of the Application for this invention, the Amendment #1, and this Amendment #2, the Applicant further

**requests assistance in refining the wording of claims if needed.** The Applicant respectfully requests assistance under MPEP 707.07(j), 2173.02, and 2173.05(d) to *"suggest claim language to applicants to improve the clarity or precision of the language used."*

- (1) The sample claim reviewed in the Interview Agenda discussed in Item [003] of Amendment #1 is represented in almost identical form by Independent Claim 24 of this Amendment #2, with Independent Claims 19 and 27 representing a slightly broader and a slightly narrower version of this sample claim.
- (2) The Interview Record mailed December 20, 2007, from the USPTO stated: *"The Applicant further discussed the issues brought forward under 35 USC 112 and 101, see pages 8-9, in reference to proposed new claim 19, see pages 10-13. The Examiners stated that the preliminary assessment of the claim did not uncover any issues under 35 USC 112. The Examiners further stated that claim 19 as proposed seemed to comply with 35 USC 101 in that utilizing documents and survey reports is claimed in the method, see Para. (h)-(k), pages 11 & 12."*

**[127] O.A. #2, Item 20: The Applicant will provide the missing items K, L, M, N, & P from the Information Disclosure Statement.** This information was received by the USPTO, and receipt provided by the USPTO, on 05-17-2004 and appears to have been misplaced. A second copy of this missing material was faxed to Fax No. 571-273-1420 on 11-06-2007 with *"fax transmission complete"* confirmed in the Applicant's fax record. A third copy of the missing information is being provided with this Amendment #2.

**[128] O.A. #2, Item 21: The Applicant respectfully submits that there are significant and material differences between cognitive functions and cognitive traits. Dictionary definitions, the Applicant's Specification details, and the Wood reference all clearly establish this difference.** The Applicant respectfully submits that the following details confirm the distinct differences between cognitive functions and cognitive traits:

- (1) The Applicant's Specification clearly defines a novel definition of a *"cognitive function."* Paragraph [0043] of the specification states that the concept of this invention is based on *"segmenting the cognitive architecture of our innate thinking process into its unique modular components, called functions in this invention,"* and

refers to “traits” as *“cognitive traits common to each cognitive function as readily observable and distinct elements of all behaviors and actions of individuals.”*

- (2) Paragraph [0063] further refers to “traits” as *“readily observable and distinct cognitive traits of all behaviors and actions of individuals [that] can be attributed to one of the twelve cognitive functions, can be a subset of a specific function, or can be attributed to a combination of functions.”* These novel definitions are allowed by MPEP 2173.05(a)-III which states: *“Consistent with the well established axiom in patent law that a patentee or applicant is free to be his or her own lexicographer, a patentee may or applicant may use terms in a manner contrary to or inconsistent with one or more of their ordinary meanings if the written description clearly redefines the meaning.”*
- (3) Dictionary definitions clearly point out that a “function” is an “action” module, with an “action” being understood to produce a result or “behavior.” This result or behavior may be called a “trait,” defined as a *“distinguishing quality as of a personal character.”*
- (4) The Webster’s New International Dictionary, copyright 1993, defines “function” as: *“an action for which a person or thing is especially fitted, used or responsible for or for which the thing exists.”*
- (5) This dictionary defines “trait” as a: *“distinguishing quality (as of a personal character): feature, mark, peculiarity.”*
- (6) Wood also clearly teaches the distinct difference between “functions” and mere “traits.” The Wood reference, Item [0004], states: *“The work of Swiss psychologists Carl Jung in the 1920’s and ‘30s led him to gather that there were four **functions** of the mind, two pairs opposing each other, which he labeled “Thinking” versus “Feeling,” and “Sensation” versus “Intuition.””* Note Jung’s use of the word “function” to define these cognitive functions. {Bold emphasis added here and below.]
- (7) The twelve “trait” words selected from Wood in this O.A. #2 all appear as secondary words, by being placed in parentheses *after* the four-letter “**function**” groups. The 83 trait words, from which the twelve words selected that most closely and approximately match the twelve cognitive functions of Applicants invention, all appear in parentheses. These 83 trait words are thus put into a secondary status by

being placed in the upright curved brackets (--) of parenthesis.

The Greg Reference Manual, copyright 1992, which is the accepted standard for the correct use of the English language, states on page 52 that it is conventional to *"Use parentheses to set off nonessential elements."*

- (8) The search of *Wikipedia.Com* for "*cognition*" referenced in this O.A. #2 is indefinite in nature and applies to all cognition as well as cognitive functions and cognitive traits. The cognition referred to as *"processes such as memory, attention, perception, problem solving, and mental imagery"* are all the secondary result of the *"actions"* of the twelve cognitive functions of this invention. For example, *"memory"* is the result of the Reality function to learn-into-memory what exists, the Imagination function to learn-into-memory what might be, and Listening to learn-into-memory from hearing from others, etc.
- (9) The *Wikipedia.com* search for "*cognitive functions*" produced a page that clearly defines cognitive functions. This site refers directly to the *"Jungian cognitive functions"* as used in MBTI, stating; *"the cognitive functions (sometimes known as mental functions) are defined as different ways of experiencing and thinking about the world. They are defined as 'Thinking, Feeling, Sensing, and Intuition.'"*
- (10) It should again be noted that the selection of the twelve *"traits"* from Wood chosen from the 83 similar *"trait"* items could only have been achieved with prior knowledge of the twelve cognitive functions of this invention.

**[129] O.A. #2, Item 22: The Applicants "instant claim language," Drawings, and Disclosure clearly defines this invention as having precisely twelve cognitive functions, no more, no less.** The Applicant respectfully submits that the language of this invention clearly defines a Cognitive Architecture system of precisely twelve cognitive functions, as further described herein:

- (1) Paragraph [0043] of the Application states: *"The concept of this invention is based on: (a) segmenting the cognitive architecture of our innate thinking process into its unique modular components, called functions in this invention; (b) identifying the exact cognitive traits common to each cognitive function as readily observable*

*and distinct elements of all behaviors and actions of individuals.”*

When research began to develop this invention, there was no set target for the number of cognitive functions required to cover the full spectrum of cognition. The number of twelve cognitive functions was finalized after thousands of hours of research and trial-and-error development as the minimum number to fully segment cognition into meaningful component parts, yet still covering the full spectrum of cognition.

The research determined that a larger number of cognitive functions are not required to satisfy this requirement of full coverage of our innate thinking process. Also, any larger number would have many disadvantages such as making this invention more difficult to remember and more difficult to teach as a cognitive development program. It would greatly increase the complexity of the structure of this invention, and would make the beneficial use of this invention much more difficult in everyday activities.

- (2) Paragraph [0006] of the Application, referring to the MBTI, states: *“Its eight elements do not cover the complete spectrum of cognition.”* This is a major deficiency in the MBTI that is overcome by this invention.
- (3) The Claims 19 to 29 of this invention have very minor amendments in this Amendment #2 to assure that the use of the word “comprising” did not create the incorrect impression that there were more than twelve cognitive functions.
- (4) The word “system” used to describe the “*cognitive architecture*” of this invention is defined as “*A group of interacting, interrelated, and interdependent elements forming a collective entity*”, and where the word “collective” is defined as “*assembled or accumulated into a whole,*” in the American Heritage Dictionary of the English Language, copyright 1979.

This word “system” is used in Item [0060] of the specification, is used throughout the Application, in the Applicant’s two Amendments, and is used in the Claims.

- (5) Item [0061] of the Specification states: *"Establishing that the twelve cognitive functions defined in this invention form the architecture of cognition and cover the full spectrum of innate cognitive processing."*
- (6) Item [[0063] of the Specification states: *"Identifying that the readily observable and distinct cognitive traits of all behaviors and actions of individuals can be attributed to one of the twelve cognitive functions, can be a subset of a specific function, or can be attributed to a combination of functions."*
- (7) Fig 1, Fig. 2, Fig. 4, and Fig. 5 of the Drawings each clearly illustrate this invention as having precisely twelve cognitive functions.
- (8) The phrase in this O.A. #2, Item 22, states: *"Wood clearly teaches using personality tests of at least twelve functions, including MBTI, Keirsey, etc."* The *"at least"* phrase of this statement clearly teaches away from the precision of the structure of this invention with exactly twelve cognitive functions and with the other precisely defined structural elements of this invention as defined in the Application. Also, this invention is not a *"personality test."* It is a cognitive development program to be used for an entirely different purpose than the Wood invention.
- (9) MPEP 2131, referenced in this O.A. #2, Item 22, states: *"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."*

**[130] The Applicant respectfully submits that the Cuttler et al. Patent No. 7346,541, newly cited as a reference in this O.A.#2, does not provide any *"teaching, suggestion, or motivating"* affecting the structure and claims of this invention. However, it is an example of the use of many secondary conventional components of an obvious nature such as questionnaires, surveys, reports, etc., that gain patentability as part of a novel overall structure.**

**[131] O.A. #2, Item 23: The Applicant respectfully requests reconsideration of the new grounds for rejection in light of the information provided above. For all the above reasons, Applicant submits that the objections listed in O.A. #2 have been**

overcome, the specification and the claims are now in proper form, and that the claims all define patentably over prior art. Therefore he submits that this application is now in condition for allowance, which action he respectfully solicits.

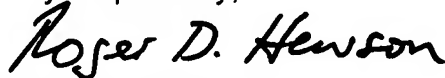
**[132] Request for an Advisory Action to expedite resolution of this Application.**

The Applicant is submitting this Amendment #2 within a two month period of the 04-04-2008 mailing date of the Final Advisory Action #2, together with a Request for Continuing Examination, to allow the possibility of an Advisory Action to establish the patentability of this Application in an expedited manner.

**Request for Conditional Assistance**

Applicant has amended the specification and the claims of this application, in Amendment #1 and in this second Amendment, so that they are proper, definite, and define novel structure that is also unobvious. If, for any reason this application as amended herein is not believed to be in full condition for allowance, Applicant respectfully requests constructive assistance and suggestions pursuant to M.P.E.P § 2173.02 and § 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,



Roger D. Hewson

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I hereby certify that this correspondence, and attachments, if any, will be deposited with the United States Postal Service by First Class Mail, in an envelope addressed to "Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450," on the date below.

Inventors Signature: *Roger D. Hewson* Date: May 29, 2008